

YOUTH SERVICES POLICY

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| Title: DNA Protocols Next Annual Review Date: 10/31/2015 | Type: B. Classification, Sentencing and Service Functions Sub Type: 8. Youth Related Services Number: B.8.14 |
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| References: La. R.S. 15:601 through 620, the Rule promulgated by the Office of State Police in the Louisiana Register referenced as LR 27:205 and dated February 20, 2001[Attachment B.8.14 (a)]; Act 1020 of the 2001 Regular Session of the Legislature; Act 487 of the 2003 Regular Session of the Legislature; YS Policies B.2.3 "Secure Care Direct Admission", B.5.1 "Youth Code of Conduct-Secure Care" and D.10.22 "Interstate Compact for Juveniles (ICJ)" | |
| STATUS: Approved | |
| Approved By: Mary L. Livers, Deputy Secretary | Date of Approval: 10/31/2014 |

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish uniform procedures for the collection and transmission of youth DNA samples to the state DNA database maintained and administered by the Office of State Police.

III. APPLICABILITY:

Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretary, General Counsel, Regional Directors, Facility Directors, Regional Managers, and any other staff who are responsible for collecting, submitting or overseeing the collection of DNA samples of youth in the secure custody of YS or under YS supervision through the Interstate Compact for Juveniles (ICJ).

IV. DEFINITIONS:

Community Based Services (CBS) - Formerly known as the Division of Youth Services, including the regional probation and parole field offices located throughout the state.

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DNA - Deoxyribonucleic acid, which is located in cells and provides an individual's personal genetic blueprint and which encodes genetic information that is the basis of human heredity and forensic identification.

DNA Analysis - DNA typing tests that generate numerical identification information obtained from a DNA sample.

DNA Database Buccal Collection Kit - The kit provided by the Office of State Police for the collection of DNA samples.

DNA Sample - Biological evidence of any nature that is utilized to conduct DNA analysis.

Felony - Any crime for which an individual may be sentenced to death or imprisonment at hard labor.

Felony-grade Delinquent Act - Any offense that if committed by an adult may be punished by death or by imprisonment at hard labor. (Note: Adult as used in this definition includes a youth as per La. R.S. 15:609.)

Interstate Compact (ICJ) - Agreement among compacting states to provide supervision of adjudicated juveniles and status offenders and return of absconders, escapees and runaways.

Juvenile Electronic Tracking System (JETS) - The centralized database used to track all youth under OJJ supervision or custody, and to record youth case record activity.

Other Specified Offense - A crime that may not be a felony but that is identified in La. R.S. 15:609(10) as a crime that will require YS to obtain a DNA sample from the offender following an adjudication for the commission of the crime, including any adjudication for attempt, conspiracy to commit, criminal solicitation, or accessory after the fact. The list of offenses is found in Attachment B.8.14 (b) and includes:

- A. A violation of La. R.S. 14:34.2 through 34.5;
- B. A violation of La. R.S. 14:35 through 37;
- C. A violation of La. R.S. 14:37.3;
- D. A violation of La. R.S. 14:38;
- E. A violation of La. R.S. 14:38.2;
- F. A violation of La. R.S. 14:40.2;
- G. A violation of La. R.S. 14:67.16;
- H. A violation of La. R.S. 14:80.1;
- I. A violation of La. R.S. 14:81.4;
- J. A violation of La. R.S. 14:82;
- K. A violation of La. R.S. 14:83 through 83.1;

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- L. A violation of La. R.S. 14:83.3 through 83.4;
- M. A violation of La. R.S. 14:85;
- N. A violation of La. R.S. 14:92;
- O. A violation of La. R.S. 107.2;
- P. A violation of La. R.S. 14:284; or
- Q. A violation of La. R.S. 14:329.2.

Regional Managers - Managers of the CBS offices located throughout the state.

Unit Head - Deputy Secretary, Facility Directors and Regional Managers.

YS Central Office - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretary, General Counsel, Regional Directors, and their support staffs.

V. POLICY:

Pursuant to La. R.S. 15:609, a youth who is adjudicated delinquent for the commission of, attempt, conspiracy, criminal solicitation, or accessory after the fact of a felony-grade delinquent act or other specified offense listed in La. R.S. 15:603(10) is required to provide a DNA sample, and YS is obligated to transmit these samples to the State Crime Lab. Therefore, it is the Deputy Secretary's policy that DNA samples shall be obtained in accordance with the law and this policy.

VI. PROCEDURES-General:

A. Criteria for taking a DNA sample from a youth

1. La. R.S. 15:609 provides that DNA samples must be taken from certain arrested persons.
2. A person who is arrested for a felony or other specified offense (including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offense), or taken at the same time he is fingerprinted pursuant to the booking procedure.
3. For purposes of this Chapter, a youth who is arrested for an offense covered by this Chapter or adjudicated delinquent for the commission of a felony-grade delinquent act, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of a felony-grade delinquent act shall be considered a person who is arrested for a felony or other specified offense.

VII. PROCEDURES-SECURE CARE YOUTH:

- A. When a youth is adjudicated delinquent or enters into a plea agreement resulting in an adjudication for a felony-grade delinquent act or other specified offense (including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses), and will go into secure care custody, the Facility Director shall ensure that all necessary procedures are in place to take a DNA sample from appropriate youth upon intake.
- B. DNA samples shall be collected only by employees who have been properly trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory. Samples will be obtained using a DNA Database Buccal Collection Kit for DNA Analysis in accordance with the Rule promulgated by the Office of State Police [see Attachment B.8.14 (a)].
- C. The Facility Director shall ensure that necessary safety protocols are followed in accordance with the Rule promulgated by the Office of State Police.
- D. DNA record keeping and the submission of samples to the DNA database shall be done in accordance with the Rule promulgated by the Office of State Police.
- E. The trained DNA collector(s) shall place the sample in the mail and enter the information into the Monthly DNA Collection Form. A copy of this form shall be placed in the youth's file and the original form shall be maintained in a file holding only Collection Forms.
- F. There shall be at least two trained collectors at each facility.

VIII. PROCEDURES-YOUTH IN RESIDENTIAL OR DAY TREATMENT:

- A. When a youth is adjudicated delinquent or enters into a plea agreement resulting in an adjudication for a felony-grade delinquent act or other specified offense (including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offense), but will not go into secure care custody, the law requires that a DNA sample be taken at the juvenile detention facility that previously housed the youth.
- B. Once the youth comes into YS custody, if the youth is not going into secure care but has previously been in a juvenile detention facility following the adjudication, the assigned Probation and Parole Officer/Juvenile (PPO/J) will not need to ensure a sample is taken.

However, in the event that the youth is placed in non-secure care, and has not previously been in a juvenile detention center, the PPO/J must take steps to comply with the agency's obligation to ensure a DNA sample has been provided. The PPO/J shall notify his/her supervisor, and then take the following steps, in the following order:

- 1) Contact the Louisiana State Police Crime Lab at (225) 925-6216, to determine if a DNA sample was obtained at the time of arrest. If the Crime Lab indicates there is a sample on file, the PPO/J shall note in Case Narratives the date of the call, the name of the person the information was obtained from, and the date the sample was taken. The PPO/J shall also enter the information into JETS that a sample was obtained and the date taken according to Crime Lab information. No further action is required.
 - 2) If the State Police Crime Lab is not in possession of a DNA sample, the PPO shall locate a local law enforcement agency that will collect a DNA sample and shall either require the youth to report or be transported to the law enforcement agency for a sample to be obtained.
- C. Each Regional Manager shall ensure that all necessary procedures are in place to verify that a DNA sample has been obtained prior to a youth's release in any manner, including inter-facility transfers and furloughs. The Regional Office does not have to take a repeat DNA sample if they possess written notification that a DNA sample was taken at the time of arrest; however, the Regional Office shall ensure that JETS reflects that the DNA sample was previously taken.

IX. PROCEDURES - YOUTH UNDER ICJ SUPERVISION:

- A. The following outlines the procedures when a youth, who has been adjudicated of a felony-grade delinquent act or other specified offense (including an attempt, conspiracy, criminal solicitation or accessory after the fact of such offenses), and has been accepted to the state from another state and comes under the supervision of YS through the Interstate Compact for Juveniles. In such cases, the PPO/J must notify his supervisor.
- B. The PPO/J is responsible for taking the youth to a law enforcement agency for the purpose of providing a DNA sample to the State Police Crime Lab. The youth must be taken by the assigned PPO/J to the nearest law enforcement agency where a DNA sample can be collected. The PPO/J shall ensure that the sample has been collected within three (3) days after the youth was reported to the Regional Office providing active supervision.

X. REFUSAL BY YOUTH TO SUBMIT SAMPLE - SECURE CARE FACILITIES:

- A. For youth confined to secure care, the Facility Director/designee shall obtain a DNA sample from any youth who is required by statute to submit a sample. If the youth refuses to provide a sample, the Facility Director/designee is authorized, pursuant to La. R.S. 15:609(I), to employ reasonable force as necessary to obtain the sample. Staff shall ensure that a video tape is made of the entire process and the procedure should be supervised by the Operations Shift Supervisor.
- B. Youth in secure care facilities who refuse to provide a sample may be charged with any appropriate rule violation as outlined in YS Policy B.5.1 "Youth Code of Conduct - Secure Care". The Facility Director shall notify the appropriate Regional Director and the Assistant Secretary via an Unusual Occurrence Report.

XII. REFUSAL BY ICJ YOUTH TO SUBMIT SAMPLE:

- A. If a youth under supervision refuses to report to the local law enforcement office and/or be transported there, the PPO/J shall first advise the youth that R. S. 15:609 permits law enforcement to employ reasonable force to secure the required sample in cases where a person refuses to provide a DNA sample.

If a youth continues to refuse the PPO/J shall advise his supervisor and if necessary contact the local court for further guidance.

Previous Regulation/Policy Number: B.8.14

Previous Effective Date: 03/16/2012



Attachments/References: B.8.14 (a) Office of State Police Rule.docx



B.8.14 (b) Other Specified Offenses For Which DNA Samples Must be Provided 2-9-12.docx